

TENYA THOMPSON, on behalf of M.G., )	
)	
Plaintiff, )	Case No.: 2:10-cv-01545-GMN-PAL
vs. )	
)	<b>ORDER</b>
CLARK COUNTY SCHOOL DISTRICT, )	
)	
Defendant. )	
)	

## I. BACKGROUND

## II. DISCUSSION

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1995); *see, e.g., Roberts v. United States of America*, No. 2:01-cv-1230-RLH-LRL, 2002 WL 1770930 (D. Nev. June 13, 2002). However, before dismissing a case for failing to follow local rules or for failure to prosecute, the district court must weigh five factors: “(1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to defendants/respondents; (4) the availability of less drastic sanctions; and (5) the public policy favoring disposition of cases on their merits.” *Pagtalunan v. Galaza*, 291 F.3d 639, 642 (9th Cir. 2002).

Under this test, “the public’s interest in expeditious resolution of litigation always favors dismissal.” *Yourish v. California Amplifier*, 191 F.3d 983, 990 (9th Cir. 1999). Also, the Court’s need to manage its docket is manifest. *See State Farm Mutual Automobile Insurance Company v. Ireland*, 2:07-cv-01541-RCJ-RJJ, 2009 WL 4280282 (D. Nev. Nov. 30, 2009). Further, Plaintiff’s failure to respond to Defendant’s Motion to Dismiss has unreasonably delayed the resolution of this case, and such unreasonable delay “creates a presumption of injury to the defense,” *Henderson v. Duncan*, 779 F.2d 1421, 1423 (9th Cir. 1986).

The fifth factor also does not weigh in favor of Plaintiff because her attorney’s sworn statement indicating that Plaintiff no longer intended to pursue her claim suggests that this case was not going to be resolved on the merits anyway. These four factors outweigh factor (4) and, accordingly, Defendant’s Motion to Dismiss (ECF No. 26) will be granted.

### CONCLUSION

**IT IS HEREBY ORDERED** that Defendants’ Motion to Dismiss (ECF No. 26) is **GRANTED**. This lawsuit is **DISMISSED without prejudice**.

DATED this 10th day of June, 2011.



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Gloria M. Navarro  
United States District Judge